

***Wabash Circuit Court***  
***Local Rules***

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## LOCAL RULE NO. 1

### Supremacy of Indiana Rules

The Indiana Rules of Civil and Criminal Procedure as promulgated by the Indiana Supreme Court are hereby adopted by the Circuit Court of Wabash County, 27th Judicial Circuit.

Any conflict between these local rules and the Indiana Trial Rules or statutes of the State of Indiana shall be resolved in favor of the Indiana Trial Rules or applicable statutes.

## LOCAL RULE NO. 2

### Persons Authorized to Practice

(A) The bars of all courts of the State of Indiana shall consist of those persons who have complied with the Supreme Court Rules for Admission to the Bar of Indiana, and are duly admitted to practice law in this State.

All attorneys so admitted shall be entitled to practice law before the Circuit Court.

(B) No person shall be permitted to practice before this Court or before any officer thereof as an attorney, except in his or her own behalf as a party, unless he or she has been admitted to practice law in the State of Indiana.

(C) Foreign attorneys shall be allowed to appear in a limited manner as provided by the Indiana Trial Rules.

## LOCAL RULE NO. 3

### Requirements to Assure Recognition of Counsel

(A) Every pleading, motion or paper filed with the Court shall clearly identify the name, address, and telephone number of the attorney representing the party filing the pleading. The individual attorney responsible for the prosecution or defense of the case shall make certain that his or her name appears on the CCS of the cause. Attorneys preparing documents for filing shall have as a part of the documents the first twelve digits of the uniform case numbering system as adopted by the Supreme Court of the State of Indiana.

(B) Any attorney entering his or her appearance after the original filing of the cause shall first file his or her formal written appearance for the party he or she intends to represent.

(C) All written orders submitted to the Court for signature shall be single spaced, and shall bear in the lower left hand corner of the final page an indication of the attorney submitting such order, in order that signed copies may be delivered to the attorney for distribution.

(D) Unless a pleading, motion or paper is personally verified by another person, any pleading, motion or paper which is not signed by at least one attorney of record as required by Indiana Trial Rule 11, or which is found not to be in conformity with the above rules shall not be accepted for filing by the Clerk. This requirement shall not apply to papers personally verified by a party. If such pleadings or orders are inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record unless substantial prejudice would be caused to a party by that striking.

#### LOCAL RULE NO. 4

##### Withdrawal of Appearance

(A) Counsel desiring to withdraw their appearance in any cause other than criminal shall file a formal request to do so. Included as a part of said request shall be a brief statement of the reasons for such request, a statement of efforts made to contact the client affected thereby, and/or evidence of written notice to the client of the request to withdraw. No request to withdraw shall be granted where the effect of the withdrawal would be to deprive the Court of jurisdiction over the party.

(B) A withdrawal of appearance accompanied by the appearance of other counsel shall constitute compliance with the requirements of paragraph (A) of this Rule.

(C) Counsel wishing to withdraw their appearance for a criminal defendant shall file a formal request to do so. Included as a part of the request shall be a brief statement of the reasons for the request, whether the request is made timely under statute, and if not timely, the statutory basis upon which the withdrawal is requested. Counsel for a criminal defendant shall not be permitted to withdraw after the omnibus date solely for the reason that the defendant has not paid his fees.

#### LOCAL RULE NO. 5

##### Form and Style of Papers and Manner of Submission

(A) All papers submitted to the Clerk or judge for filing shall be flat and unfolded, unless received by mail. Typewritten pages shall have no covers or backs and shall be fastened together at the top and at no other place.

(B) All pleadings shall be file stamped before being submitted for notation on the CCS, unless filed by mail. After file stamping the documents, the attorney shall retain his copy or copies for his own use or for service upon opposing parties.

(C) Filings not requiring action by the Court may be submitted to the Reporter for entry by proposed docket entries written on minute sheets provided for that purpose. Filings requiring action by the Court should be submitted to the Court in person, or by submitting a proposed docket sheet entry on minute sheets.

(D) Agreements arrived at by the parties, whether before or at the time of hearing, shall be required to be submitted in written form by the parties with a proposed order approving such agreements.

(B) Motions for Change of Venue from the County or the Judge under the Indiana Trial Rules shall state within the motion whether they are timely filed, and if not, shall set out the grounds and be verified as required by rule.

(F) Any pleading which is found not to be in conformity with the above rules shall not be accepted for filing by the Clerk. If such pleadings or orders are inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record, unless substantial prejudice would be caused to a party by that striking.

## LOCAL RULE NO. 6

### Hearing of Motions

(A) The filing of any motion, petition or request with the Clerk of the Court or with the Court which requires oral argument or ruling by the Court shall be brought to the attention of the judge by the party filing same within three days of such filing. **In the event that a case is venued to the Court as a result of a motion for change of venue filed in another county, a party who requests a hearing or ruling on any matter filed while the case was in the other county shall first bring such matter to the attention of the judge by written request for hearing or ruling. The time period for calculation of the time limits imposed under Indiana Trial Rule 53.1 shall begin to run on the date of filing of such a request for hearing or ruling.**

(B) The time of hearing motions shall be fixed by the Court. Dates of hearing shall not be specified in the notice of hearing of the motion unless prior authorization shall be obtained from the judge, the reporter or bailiff. Any party may request oral argument upon a motion, but the granting of oral argument is wholly discretionary with the Court.

(C) In appropriate cases, upon request of counsel or upon order of the Court, hearings may be held by teleconference with all attorneys or parties of record.

## LOCAL RULE NO. 7

### Continuances

(A.) Motions for continuance, unless made during the hearing of the cause, shall be in writing and verified. Said motions shall contain as a part thereof a statement that opposing counsel has been previously notified of the request, and an indication of the acquiescence or objection of opposing counsel to said continuance. Further, said motions shall contain an estimate of the time required for the hearing of the cause.

(B) The Court, in its discretion, may require any written motion for continuance to be signed by the party requesting same.

## LOCAL RULE NO. 8

### Pre-trial Conferences

(A) There shall be a pretrial conference in every case, civil and criminal, with the exception of dissolution of marriage and attendant actions, paternity, mental health and juvenile actions. Pretrial conferences in actions excepted by this rule may be held only upon request or upon the Courts own motion.

(B) In all cases, discovery should be completed on or before the date for the pretrial conference, unless otherwise ordered by the Court. For good cause shown, additional discovery may be ordered at any time prior to the date of trial.

(C) Parties shall be prepared at the time of the pretrial conference to discuss the status of any pending motions, to discuss whether further motions shall be filed with the Court and their subject matter, to enter into any stipulations regarding facts or exhibits, to indicate to the Court any unusual aspects of the case or any unusual instructions anticipated to be requested, and to discuss the possibility of settlement of the issues.

(D) In all civil cases to be tried to a jury, Counsel shall prepare and file with the Court a proposed pretrial order to be submitted to the Court no later than ten (10) days prior to the date the cause is set for trial. Counsel shall further file at that time a proposed preliminary instruction on the issues to be decided at trial.

(E) In all cases to be tried to a jury, Counsel for the respective parties or the State of Indiana shall submit proposed final instructions to the Court no later than three days prior to trial. Such proposed instructions shall be submitted under separate cover, in duplicate, with one set bearing the

number of the tendered instruction and any supporting authority, and the other without any markings indicating the party submitting the instructions, with the exception of the attached cover sheet.

## LOCAL RULE NO. 9

### Trial Assignment

(A) Matters shall be set for trial as primary, secondary, or tertiary settings. Counsel shall be prepared for trial on the date so set, regardless of the nature of the setting.

(B) In all civil cases, matters shall be set for trial and pretrial conference upon the Court's own motion or upon request therefore by Counsel or a party to the action. Parties requesting a trial setting shall indicate in the request whether the trial is to the Court or a jury, and the anticipated length of trial.

Counsel for the Plaintiff shall inform the Court no later than ten (10) days before trial as to whether settlement of the issues has been achieved. Secondary or tertiary settings shall be required to stand trial on the date so set unless notified seven (7) days in advance of trial that the primary setting will be tried.

(C) In all criminal cases, matters shall be set for trial and pretrial conference at the conclusion of the initial hearing in the cause.

Counsel for the Defendant in such cases shall indicate to the Court whether or not a plea agreement shall be entered into no later than ten (10) days prior to trial. Plea agreements offered or accepted after such deadline shall not be accepted by the Court unless the Defendant wishes solely to plead guilty to the charged offense. Secondary or tertiary settings shall be required to stand trial on the date so set unless notified seven (7) days in advance of trial that the primary setting will be tried.

## LOCAL RULE NO. 10

### Interrogatories

(A) No duplicated forms containing interrogatories shall be served upon a party unless all interrogatories or special forms are consecutively numbered and applicable to the particular cause in which they are sought.

(B) The number of interrogatories which may be served upon an opposing party shall be limited so as to require the opposing party to make no more than one hundred (100) individual answers. Each interrogatory shall be numbered individually and consecutively. Waiver of this limitation will be granted by the Court in cases in which the limitation would work a manifest injustice or would be impractical due to the complexity of the case.

## LOCAL RULE NO.11

### Dissolution Proceedings

At or before the time of final hearing on any contested dissolution, the parties to the dissolution shall submit to the Court an affidavit, under penalties of perjury, setting forth all of the property owned by the parties, together with an indication of how the property is or was titled and their estimate of the value of the property when the dissolution was filed. As a part of the affidavit, the parties shall also list all outstanding debts of the parties and the amounts owed as of the date of filing. Each affidavit shall include the following:

1. A general statement of household furnishings, furniture, appliances and equipment, unless the value of an individual piece exceeds \$100.00. Such a piece should then be listed as a separate item.
2. Vehicles of any kind
3. Securities - stocks, bonds etc.
4. Cash and Deposit Accounts of any kind
5. Life Insurance policies which have any cash surrender value
6. Profit sharing or retirement accounts and a statement of whether all or any is vested
7. Real Estate and whether it is used as a residence or other, its original cost, any cost for additions, mortgage balance, other liens, and equity claimed.
8. Business interest, including name, type, value and indebtedness.
9. Any other assets not included in the foregoing.

## LOCAL RULE NO. 12

### Probate Proceedings

(A) In every estate the personal representative, before entering upon his or her duties, shall file a bond not less than the value of the personal property to be administered, except as provided in the following circumstances:

1. Where, under the terms of the Will, the testator indicates that the bond may be dispensed with.
2. Where the personal representative is an heir or legatee of the estate, the bond may be reduced by the personal representative's share.
3. Where the heirs have filed a written request that the personal representative serve without bond.

(B) I.C. 29-1 - 16-2 provides that every personal representative shall close the estate as promptly as possible. Unless for good cause shown, the time for filing a final account in the estate shall not exceed one (1) year from the appointment of a personal representative. Good cause for not

closing an estate as so directed shall be shown by filing an intermediate accounting no later than thirty (30) days after the expiration of one year. The accounting shall state the reason why the estate cannot be closed, and propose partial distribution to the extent that it can be done without prejudice to distributees and claimants.

Failure to comply with this rule shall be grounds for the removal of the personal representative and forfeiture of personal representatives and attorneys fees.

(C) Damages payable by reason of wrongful death claims or suits shall be distributed in accordance with the applicable statute, and are not distributable in accordance with any other instrument.

## LOCAL RULE NO. 13

### Jury Selection

The passing of a juror twice, after he/she has been examined, tendered to, and accepted by the other party will be deemed to be a waiver of the right to challenge further, unless new conditions arise calling for further examination of the juror. Where both parties strike the same juror, the strike shall be counted against the State/ Plaintiff in the first round and the Defendant in the second round and shall alternate thereafter.

## LOCAL RULE NO. 14

### Withdrawal of Original Records and Papers

No person shall withdraw any original pleading, paper, record, model, or exhibit from the custody of the clerk or other officer of the Court except (1) upon order of the Court, and (2) upon leaving a proper receipt with the clerk or officer.

## LOCAL RULE NO. 15

### Law Library

The books in the law library shall be in the custody of the Courts. No person shall remove any book from the law library until he/she contacts the Court Bailiff and notifies the Bailiff that the book is being borrowed. Any book removed from the library shall be retained no longer than ten (10) days. Persons holding books longer than ten days will be fined fifty (50) cents per day that the book is overdue, and may be subject to suspension of library privileges.

The Court shall establish electronic research facilities in the library, and Counsel shall be required to abide by any rules adopted by the Court governing the use of equipment or regulating content of those facilities.